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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,207	04/13/2004	Brian M. Cover	1139-P-1	4055
20152	7590	05/13/2005	EXAMINER	
TOD R NISSLE			PASSANITI, SEBASTIANO	
PO BOX 55630			ART UNIT	
PHOENIX, AZ 85078			PAPER NUMBER	
			3711	

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/823,207

Applicant(s)

COVER ET AL.

Examiner

Sebastiano Passaniti

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on see detailed Office action.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This Office action is responsive to communication received 04/13/2004 – application papers filed; 03/14/2005 – Correspondence Address Change; 04/18/2005 – Revocation of Power of Attorney with new Power of Attorney.

Claims 1-3 are pending.

Following is an action on the MERITS:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard in view of Morrison. Howard shows every feature claimed with the exception of an explicit showing of a grip at the distal end of the shaft. To have furnished the club in Howard with a grip to enable a player to comfortably hold the club during use would have been obvious in view of the patent to Morrison, which shows it to be old in the art to include a gripping portion (element 6, Figure 1) at the distal end of the shaft so that a user may properly grasp and hold the club (Figure 5). As for the remaining limitations in the claims and with respect to the Howard reference, at least one of elements (25) may

Art Unit: 3711

serve as the claimed wing portion that extends rearwardly from the forward portion of the head. The wing portion is movably slidable in a lateral position with respect to the location of the proximate end of the shaft in order to alter the heel-to-toe weight distribution.

Claim 3 is objected to because of the following informalities: In line 4, it would appear that "distal" should read "proximate", as it is the proximal end that is attached to the head, not the distal end. Thus, the distal end would not appear to be the end that is movable between at least two positions on the head. Clarification is requested.

Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Wettlaufer. Note that the proximate end of shaft (2) that is within the head may be moved between two distinct operative positions, as is clearly shown in a comparison of Figures 1 and 2. In using Wettlaufer, the claim is being interpreted as if the proximate end of the shaft is movable. See the explanation under the objection to claim 3, *supra*.

Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by each of Ruvang, Lindgren and McNair. In each of the cited references, the proximate end of the shaft is movable between two distinct operative positions on the head. With regards to Ruvang, note that the shaft (12) may be displaced laterally from heel-to-toe, as shown in Figure 12 and as further explained in col. 6, lines 6-35. With regards to Lindgren, shaft (5) may be operatively moved to accommodate both left and right-handed players, as detailed on page 1, col. 1, lines 1-13. With regards to McNair, the shaft (1) may be laterally displaced between at least one of two operative positions, as shown in Figure 2 and as further described on page 2, col. 1, lines 5-33. Here, the claim is being

Art Unit: 3711

interpreted as if the proximate end of the shaft is movable. See the explanation under the objection to claim 3, *supra*.

Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Palotsee. If the claim is interpreted in a literal sense, with the distal end movable between at least two operative positions, then Palotsee is appropriate for showing a grip (11) that is movable with respect to the head between at least two operative positions. See connection (16) and col. 2, lines 56-73, wherein Palotsee details the movement of the grip.

Applicant is respectfully reminded to maintain a clear line of demarcation between the instant claims and the claims of related application 10/948,631 in order to avoid the need to address any concerns related to a double patenting or obviousness-type double patenting situation during the continued course of examination of this instant case.


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maurice shows a slot within which weight (15) may be laterally moved to change the weight distribution of the head. See Figures 7 and 8 in Lejeune. Reinholz and Schooler show shaft connections, of interest. Havey and Guier show the commonness of providing grips on clubs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sebastiano Passaniti whose telephone number is 571-272-4413. The examiner can normally be reached on Mon-Fri (6:30-3:00).

Art Unit: 3711

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sebastiano Passaniti  
Primary Examiner  
Art Unit 3711

S.Passaniti/sp  
May 10, 2005